



General Assembly

February Session, 2010

Raised Bill No. 205

LCO No. 335

00335_____ENV

Referred to Committee on Environment

Introduced by:
(ENV)

***AN ACT CONCERNING ENHANCEMENTS TO THE INLAND
WETLANDS AND WATERCOURSES ACT.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22a-36 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2010*):

3 The inland wetlands and watercourses of the state of Connecticut
4 are an indispensable and irreplaceable but fragile natural resource
5 with which the citizens of the state have been endowed. The wetlands
6 and watercourses are an interrelated web of nature essential to an
7 adequate supply of surface and underground water; to hydrological
8 stability and control of flooding and erosion; to the recharging and
9 purification of groundwater; and to the existence of many forms of
10 animal, aquatic and plant life. Many inland wetlands and watercourses
11 have been destroyed or are in danger of destruction because of
12 unregulated use by reason of the deposition, filling or removal of
13 material, the diversion or obstruction of water flow, the erection of
14 structures and other uses, all of which have despoiled, polluted and
15 eliminated wetlands and watercourses. Such unregulated activity has
16 had, and will continue to have, a significant, adverse impact on the

17 environment and ecology of the state of Connecticut and has and will
 18 continue to imperil the quality of the environment thus adversely
 19 affecting the ecological, scenic, historic and recreational values and
 20 benefits of the state for its citizens now and forever more. The
 21 preservation and protection of the wetlands and watercourses from
 22 random, unnecessary, undesirable and unregulated uses, disturbance
 23 or destruction is in the public interest and is essential to the health,
 24 welfare and safety of the citizens of the state. It is [, therefore,] the
 25 purpose of sections 22a-36 to 22a-45, inclusive, as amended by this act,
 26 to protect the citizens of the state by making provisions for the
 27 protection, preservation, maintenance and use of the inland wetlands
 28 and watercourses by minimizing their disturbance and pollution;
 29 maintaining and improving water quality in accordance with the
 30 highest standards set by federal, state or local authority; preventing
 31 damage from erosion, turbidity or siltation; preventing loss of fish and
 32 other beneficial aquatic organisms, wildlife and vegetation and the
 33 destruction of the natural habitats thereof; deterring and inhibiting the
 34 danger of flood and pollution; protecting the quality of wetlands and
 35 watercourses for their conservation, economic, aesthetic, recreational
 36 and other public and private uses and values; and protecting the state's
 37 potable fresh water supplies from the dangers of drought, overdraft,
 38 pollution, misuse and mismanagement by providing an orderly
 39 process to balance the need for the economic growth of the state and
 40 the use of its land with the need to protect its environment and ecology
 41 in order to forever guarantee to the people of the state, the safety of
 42 such natural resources for their benefit and enjoyment and for the
 43 benefit and enjoyment of generations yet unborn. It is the public policy
 44 of the state to preserve and to prevent the despoliation and destruction
 45 of the inland wetlands and watercourses of the state.

46 Sec. 2. Section 22a-42 of the general statutes is repealed and the
 47 following is substituted in lieu thereof (*Effective October 1, 2010*):

48 (a) To carry out and effectuate the purposes and policies of sections
 49 22a-36 to 22a-45a, inclusive, as amended by this act, it is hereby

50 declared to be the public policy of the state to require municipal
51 regulation of activities affecting the wetlands and watercourses within
52 the territorial limits of the various municipalities or districts, to
53 preserve and to prevent the despoliation and destruction of such
54 wetlands and watercourses.

55 (b) Any municipality may acquire wetlands and watercourses
56 within its territorial limits by gift or purchase, in fee or lesser interest
57 including, but not limited to, lease, easement or covenant, subject to
58 such reservations and exceptions as it deems advisable.

59 (c) On or before July 1, 1988, each municipality shall establish an
60 inland wetlands agency or authorize an existing board or commission
61 to carry out the provisions of sections 22a-36 to 22a-45, inclusive, as
62 amended by this act. Each municipality, acting through its legislative
63 body, may authorize any board or commission, as may be by law
64 authorized to act, or may establish a new board or commission to
65 promulgate such regulations, in conformity with the regulations
66 adopted by the commissioner pursuant to section 22a-39, as are
67 necessary to protect the wetlands and watercourses within its
68 territorial limits. The ordinance establishing the new board or
69 commission shall determine the number of members and alternate
70 members, the length of their terms, the method of selection and
71 removal and the manner for filling vacancies in the new board or
72 commission. No member or alternate member of such board or
73 commission shall participate in the hearing or decision of such board
74 or commission of which he is a member upon any matter in which he
75 is directly or indirectly interested in a personal or financial sense. In
76 the event of such disqualification, such fact shall be entered on the
77 records of such board or commission and replacement shall be made
78 from alternate members of an alternate to act as a member of such
79 commission in the hearing and determination of the particular matter
80 or matters in which the disqualification arose. For the purposes of this
81 section, the board or commission authorized by the municipality or
82 district, as the case may be, shall serve as the sole agent for the

83 licensing of regulated activities.

84 (d) At least one member of the inland wetlands agency or staff of
85 the agency shall be a person who has completed the comprehensive
86 training program developed by the commissioner pursuant to section
87 22a-39. Failure to have a member of the agency or staff with training
88 shall not affect the validity of any action of the agency. The
89 commissioner shall annually make such program available to one
90 person from each town without cost to that person or the town. Each
91 inland wetlands agency shall hold a meeting at least once annually at
92 which information is presented to the members of the agency which
93 summarizes the provisions of the training program. The commissioner
94 shall develop such information in consultation with interested persons
95 affected by the regulation of inland wetlands and shall provide for
96 distribution of video presentations and related written materials which
97 convey such information to inland wetlands agencies. In addition to
98 such materials, the commissioner, in consultation with such persons,
99 shall prepare materials which provide guidance to municipalities in
100 carrying out the provisions of subsection (f) of section 22a-42a, as
101 amended by this act.

102 (e) Any municipality, pursuant to ordinance, may act through the
103 board or commission authorized in subsection (c) of this section to join
104 with any other municipalities in the formation of a district for the
105 regulation of activities affecting the wetlands and watercourses within
106 such district. Any city or borough may delegate its authority to
107 regulate inland wetlands under this section to the town in which it is
108 located.

109 (f) Municipal or district ordinances or regulations may embody any
110 regulations promulgated hereunder, in whole or in part, or may
111 consist of other ordinances or regulations in conformity with
112 regulations promulgated hereunder. Any ordinances or regulations
113 shall be for the purpose of effectuating the purposes of sections 22a-36
114 to 22a-45, inclusive, as amended by this act, and [,] a municipality or

115 district, in acting upon ordinances and regulations, shall incorporate
116 the factors set forth in section 22a-41.

117 (g) Nothing contained in this section shall be construed to limit the
118 existing authority of a municipality or any boards or commissions of
119 the municipality, provided the commissioner shall retain authority to
120 act on any application filed with said commissioner prior to the
121 establishment or designation of an inland wetlands agency by a
122 municipality.

123 Sec. 3. Subsection (c) of section 22a-42a of the 2010 supplement to
124 the general statutes is repealed and the following is substituted in lieu
125 thereof (*Effective October 1, 2010*):

126 (c) (1) On and after the effective date of the municipal regulations
127 promulgated pursuant to subsection (b) of this section, no regulated
128 activity shall be conducted upon any inland wetland or watercourse
129 without a permit. Any person proposing to conduct or cause to be
130 conducted a regulated activity upon an inland wetland or watercourse
131 shall file an application with the inland wetlands agency of the town or
132 towns wherein the wetland or watercourse in question is located. The
133 application shall be in such form and contain such information as the
134 inland wetlands agency may prescribe. The date of receipt of an
135 application shall be determined in accordance with the provisions of
136 subsection (c) of section 8-7d. The inland wetlands agency shall not
137 hold a public hearing on such application unless the inland wetlands
138 agency determines that the proposed activity may have a significant
139 impact on wetlands or watercourses, a petition signed by at least
140 twenty-five persons who are eighteen years of age or older and who
141 reside in the municipality in which the regulated activity is proposed,
142 requesting a hearing is filed with the agency not later than fourteen
143 days after the date of receipt of such application, or the agency finds
144 that a public hearing regarding such application would be in the
145 public interest. An inland wetlands agency may issue a permit without
146 a public hearing provided no petition provided for in this subsection is

147 filed with the agency on or before the fourteenth day after the date of
 148 receipt of the application. Such hearing shall be held in accordance
 149 with the provisions of section 8-7d. The inland wetlands agency shall
 150 consider all evidence brought before such agency or its agent by any
 151 person or entity, including, but not limited to, scientific evidence,
 152 expert opinion, direct observations made regarding the proposed
 153 regulated activity, environmental reviews, policy letters or guidance
 154 documents provided by or on behalf of an environmental review team
 155 or by the Department of Environmental Protection and written
 156 comments or oral testimony submitted by the Commissioner of Public
 157 Health or by or on behalf of a water company in response to written
 158 notice provided to such water company pursuant to section 22a-42f. If
 159 the inland wetlands agency, or its agent, fails to act on any application
 160 within thirty-five days after the completion of a public hearing or in
 161 the absence of a public hearing within sixty-five days from the date of
 162 receipt of the application, or within any extension of any such period
 163 as provided in section 8-7d, the applicant may file such application
 164 with the Commissioner of Environmental Protection who shall review
 165 and act on such application in accordance with this section. Any costs
 166 incurred by the commissioner in reviewing such application for such
 167 inland wetlands agency shall be paid by the municipality that
 168 established or authorized the agency. Any fees that would have been
 169 paid to such municipality if such application had not been filed with
 170 the commissioner shall be paid to the state. The failure of the inland
 171 wetlands agency or the commissioner to act within any time period
 172 specified in this subsection, or any extension thereof, shall not be
 173 deemed to constitute approval of the application.

174 (2) An inland wetlands agency may delegate to its duly authorized
 175 agent the authority to approve or extend an activity that is not located
 176 in a wetland or watercourse when such agent finds that the conduct of
 177 such activity would result in no greater than a minimal impact on any
 178 wetland or watercourse provided such agent has completed the
 179 comprehensive training program developed by the commissioner
 180 pursuant to section 22a-39. Notwithstanding the provisions for receipt

181 and processing applications prescribed in subdivision (1) of this
182 subsection, such agent may approve or extend such an activity at any
183 time. Any person receiving such approval from such agent shall,
184 within ten days of the date of such approval, publish, at the applicant's
185 expense, notice of the approval in a newspaper having a general
186 circulation in the town wherein the activity is located or will have an
187 effect. Any person may appeal such decision of such agent to the
188 inland wetlands agency within fifteen days after the publication date
189 of the notice and the inland wetlands agency shall consider such
190 appeal at its next regularly scheduled meeting provided such meeting
191 is no earlier than three business days after receipt by such agency or its
192 agent of such appeal. The inland wetlands agency shall, at its
193 discretion, sustain, alter or reject the decision of its agent or require an
194 application for a permit in accordance with subdivision (1) of
195 subsection (c) of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2010	22a-36
Sec. 2	October 1, 2010	22a-42
Sec. 3	October 1, 2010	22a-42a(c)

Statement of Purpose:

To augment the scope of the evidence considered by inland wetlands agencies when determining whether to grant a permit.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]